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MAR 6 1995

BEFORE THE
Federal Communications Commission

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

WASHINGTON, D.C.

In the Matter of)
)
Amendment of the Commission's)
Rules to Preempt State and Local)
Regulation of Tower Siting For)
Commercial Mobile Services Providers)

RM - 8577

To: The Commission

**REPLY COMMENTS OF
THE ELECTROMAGNETIC ENERGY ASSOCIATION
IN SUPPORT OF CTIA'S PETITION FOR RULEMAKING**

The Electromagnetic Energy Association ("EEA"), hereby submits its Reply to comments occasioned by CTIA's Petition For Rulemaking requesting the commencement of a proceeding for the adoption of rules preempting state and local regulation that prevents or impedes the siting and construction of new CMRS transmission towers.

The EEA is a coalition of companies and trade associations representing a wide variety of communications businesses, from broadcasting to cellular to the full-range of other land mobile communications services, such as broadband and narrowband PCS, paging, specialized mobile radio, and two-way dispatch radio services.¹

¹ EEA was first formed in 1984 as the "Electromagnetic Energy Policy Alliance." It has taken an active role in
(continued...)

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The initial comments have established that significant problems exist, including excessive costs and delay, in the siting of CMRS towers.² Thus, the Commission should issue the requested Notice. While some argue against the requested preemption, they have not brought forward substantial reasons to forgo a Notice of Proposed Rulemaking.

Some comments raise the issue of radiofrequency ("RF") emissions in connection with CTIA's petition.³ RF issues should not and need not be considered in this proceeding. EEA has pending a separate Petition for Further Notice of Proposed Rulemaking filed in ET Docket No. 93-62 on December 22, 1994 regarding the preemption of state and local RF energy rules. In that Petition, EEA asked the Commission to issue a Further Notice to preempt state and local regulation of RF energy aspects of FCC-authorized transmission antennas to the extent they are inconsistent with the Commission's standards. EEA's proposed preemption applies to all FCC-authorized transmitters, including

¹(...continued)
promoting informed decisionmaking on public policy relating to the safe use of electromagnetic energy, as to which its members have a unique and authoritative body of knowledge.

² See, McCaw Cellular at 11-19; Frontier Cellular at 7-9; NYNEX at 5-7; Vanguard Cellular at 2-5; PCIA at 4-6; Southwestern Bell at 8-15; USCC at 4-15; Pacific Telecom Attachment; Sprint at 4-9.

EEA stated in its initial comments that we support CTIA's petition but believe it would be appropriate for the Commission to broaden the scope of the proposed notice to include all FCC-authorized towers rather than only CMRS towers. EEA at 2.

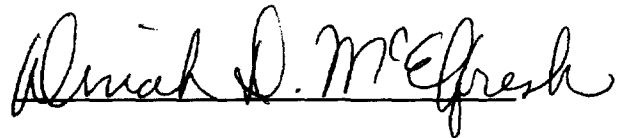
³ See, e.g., City of Stamford at 1; PageNet at 4-5.

radio and television stations and private mobile as well as PCS, cellular and other Commercial Mobile Radio transmission facilities. Given this separate petition, there is no basis for delaying the issuance of the Notice of Proposed Rulemaking as requested by CTIA. Moreover, because RF issues are applicable to all FCC-authorized transmitters, they should be considered in one rulemaking, as EEA requested, without delay.

CONCLUSION

For the reasons outlined above, the Commission should initiate a Notice of Proposed Rulemaking to preempt state and local tower siting rules that have the purpose or effect of barring or impeding the location and construction of new FCC-authorized towers. Furthermore, RF issues should be considered separately in EEA's pending request for rulemaking.

Respectfully Submitted,

A handwritten signature in cursive script, reading "Daniel D. McEffresh". The signature is written in dark ink and is positioned below the "Respectfully Submitted," text.

ELECTROMAGNETIC ENERGY ASSOCIATION
1255 23rd Street, N.W.
Suite 850
Washington, D.C. 20037

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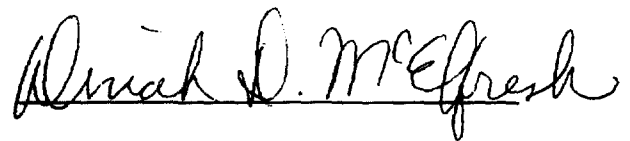
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